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PPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/049,208	02/08/2002	Patrick Bernardelli	A0000135-01-CFP	A0000135-01-CFP 8057	
75	90 06/13/2003				
Claude F Purchase Jr Warner Lambert Company 2800 Plymouth Road			EXAMI	EXAMINER	
			HABTE, KAHSAY		
Ann Arbor, MI 48105			ART UNIT	PAPER NUMBER	
			1624	6	
			DATE MAILED: 06/13/2003	.)	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Samin r Kahasy Hable, Ph. D. 1624			Application No.	Applicant(s)			
Kahasy Habte, Ph. D. 1624	Office Action Summary		10/049,208	BERNARDELLI, PATRICK			
The MALING DATE of this communication appears on the cover sheet with the correspondence address − Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions for time rays to swildle under the growing of all of the period for reply appealed under the growing of 30° CPR 1.35(q), in no event, however, may a ripply be timely filled before the provided above is less than thirty (30) days, a roby within be adultatory minimum or filthiny (30) days will be considered timely. If the period for reply appealed above is less than thirty (30) days, a roby within the adultatory minimum or filthiny (30) days will be considered timely. If the period for reply appealed above is less than thirty (30) days, a roby within the adultatory minimum or filthiny (30) days will be considered timely. If the period for reply appealed above is less than thirty (30) days, a roby within the adultatory minimum or thirty (30) days will be considered timely. If the period for reply appealed above is less than thirty (30) days, a roby within the adultation than the results of the advertised timely. If the period for reply appealed above is less than thirty (30) days, a roby within the adultation than the reply within the set on extended products of the advertised timely. If the period for reply appealed above is the advertised to the advertised timely. If this action is FINAL. 2b) This action is non-final. 3c) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-17 is/are pending in the application. 4) Claim(s) 1-17 is/are pending in the application. 4) Claim(s) 1-17 is/are rejected. 7) Claim(s) 1-17 is/are rejected. 7) Claim(s) 1-17 is/are objected to by the Examiner. Provided the advanced provided advanced to a second provided to a provided advanced to a second pr			Examin r	Art Unit			
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extracions of time may be available under the provision of 37 CPR 1.75(a), in no event, however, may a reply be timely filled If the pancid for reply specified above is less than firty (30) days, a reply which the statulory minimum of thinky (30) days, as reply which the statulory minimum of thinky (30) days, as reply which the statulory minimum of thinky (30) days, as reply which the statulory minimum of thinky (30) days, as reply which the statulory minimum of the mailing date of this communication. Falsules to reply which the set of extended period for reply will, by statulor, cause the application to seconic ABANCONEC (35 U.S.C. § 135). Brail and state term adjustment. See 37 CPR 1.764(b). Status 1) Responsive to communication(s) filled on colored provided and set of the communication. 1) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Cialms 4) Claim(s) 1-17 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) 1-17 is/are rejected. 7) Claim(s) is/are allowed. 8) Claim(s) 1-17 is/are rejected to by the Examiner. 10) The drawing(s) filed on is/are: a) cacepted or b) objected to by the Examiner. Application Papers 10) The drawing(s) filed on is/are: a) cacepted or b) objected to by the Examiner. 11) The proposed drawing correction filed on is/are: a) approved by disapproved by the Examiner. 12 approved, corrected drawings are required in reply to this Office action. 12 The eath or declaration is objected to by the Examiner. 13 Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a) (d) or (f). 14 Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 1			ears on the cover sheet with the c	orrespondence address			
THE MAILING DATE OF THIS COMMUNICATION. Esteriolose of the may be available under the provision of 3 CPR 1.13(6). In no event, however, may a reply be timely filed after 50 (6) MONTHS from the mailing date of this communication. Fallows the St. (6) MONTHS from the mailing date of this communication. It NO periods or reply a securities drow, the maximum statushor priod val by suph and we give fix (6) MONTHS from the mailing date of this communication. Fallows to reply within the set or outerded period for reply will, by statutory maintained by any and we give fix (6) MONTHS from the mailing date of this communication. Fallows the provision of the set of the set of the maintained by the set of the set o	• •						
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DETAILED ACTION

Abstract

1. The abstract is defective, because it does not define clearly what the invention is. It is recommended that applicants draw the reaction to define their invention.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 1, the proviso "the inert aprotic solvent is not dichloromethane, dichloroethane or trichloro ethane" lacks descriptive support. Said proviso was not present when the case was filed originally.

3. Claims 1-17 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the oxidation of diazepam (see example 2, compound 1), does not reasonably provide enablement for the oxidation of any organic compound. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the invention commensurate

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in scope with these claims. There has been recited a process for the oxidation of an organic compound, but the specification is not enabled for such a scope.

There has been recited in claim 1 the oxidation of organic compounds in general, but it is not plausible to oxidize all organic compounds with a reaction medium comprising a metalloporphyrin (in general) and an oxidizing agent in an inert aprotic solvent. For example, an oxidized compound such as carboxylic acid cannot be oxidized further. Applicant's claim of oxidizing all organic compounds is the same as a doctor saying "I can treat all type of diseases with a single tablet." For example (page 9), it has been disclosed the oxidation of diazepam (1) into its oxidized product, but it did not produce a single oxidized product. The byproducts (compound 2, and compounds 4-6) are the indication that the reaction is not clean.

Applicants have also claiming metalloporphyrin (in general) as a catalyst for oxidation, but the specification does not teach the use of metalloporphyrin in general for catalytic oxidation. For example, it has been recited in (Battoni et al. Laboratoire de Chimie et Biochimie Pharmacoloques et Toxicologiques, Univ. Rene Descartes, Paris, Fr., Act. Dioxygen Homogeneous Catal. Oxid. [Proc. Int. Symp], 5th (1993), 449 that the structure of the metalloporphyrin affects the oxidation process. This indicates that some metalloporphyrin compounds are not used as a catalyst for oxidation. What type of metalloporphyrin are applicants claiming?

It is required that applicants claim to what actually are entitled to. It requires undue experimentation to find out, which organic compounds/groups (e.g. diazepam,

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azepine, alcohols, alkanes, amines, etc.) are oxidized and which are not. The same is true for the catalyst.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention:

- a. Claim 1 and claims dependent thereon are rejected because the phrase "organic compounds" is indefinite. What are covered and what are not? How can one tell which organic compounds are covered and which are not? It is required that applicants recite the organic compounds that are oxidized.
- b. In claim 1, the term "metalloporphyrin" is indefinite. What are covered and what are not? What are the metals? Are the porphyrin substituted? If so, by what? Since the structure of the metalloporphyrins are critical for the reaction, it is recommended that applicants recite in the claim the type of the metals and the nature of porphyrin (see specification pages 3-4).

Conclusion

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kahsay Habte, Ph. D. whose telephone number is (703) 308-4717. The examiner can normally be reached on M-F (9.00AM- 5:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mukund Shah can be reached on 703-308-4716. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

Kahsay Habte, Ph. D.

Examiner Art Unit 1624

KH June 11, 2003 Mukund J. Shah

Supervisory Patent Examiner

Muteur 1-1hl

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